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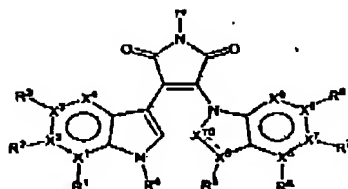
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Remarks and Arguments

Newly numbered claims 31-63 (previous claims 1 through 33) were pending in the application. In response to the restriction requirement, Applicants hereby elect *with traverse* Group I (newly numbered claims 31-36, 38-40, 42-46, and 48-52, which correspond to previous claims 1-6, 8-10, 12-16, and 18-22). Newly numbered claims 31 and 39, which correspond to previous claims 1 and 9, have been amended to reflect the variables of X as being carbon, as required by this election. Newly numbered claims 50 and 51, which correspond to previous claims 20 and 21 have been amended to include the species elections required by the restriction requirement. Previous claims 7, 11, 17, and 23-33, which correspond to newly numbered claims 37, 41, 47, and 53-63, have been withdrawn without prejudice to remove non-elected subject matter. *No new matter has been added.* Applicants reserve the right to prosecute the non-elected subject matter in one or more related applications.

The Examiner has restricted the pending claims into the following groups:

Group I: Claims 1-6, 8-10, 12-16, 18-22, in part, drawn to a product of the formula:



wherein all of the variable X groups are carbon.

Group II: Claims 1-5, 7, 9, 11, 13-17, 20 and 22, in part, drawn to a product of the formula in Group I, wherein X⁵ is nitrogen and all of the other X variable groups are carbon.

Group III: Claims 1-22, in part, drawn to a product of the formula in Group I, claimed but not encompassed by any of the Groups I-II.

Groups IV-VI: Claims 23-25, drawn to a product of Group I-III, respectively, in combination with a second ingredient.

Groups VII-IX: Claims 26-33, drawn to a method of using a product of Group I-III, respectively.

The Examiner has further requested that election of one of the aforesaid groups also requires election of species from newly numbered claims 50 and 51, which correspond to previous claims 20 and 21. To be fully responsive to the restriction requirement, Applicants hereby elect compounds 149 and 167 for further prosecution in claims 50 and 51, respectively. Newly numbered claims 31-34, 36, 39, 40, 43-46, 48 and 49 read on compound number 149. Newly numbered claims 31-36, 39, 40, 44, 46, 48 and 49 read on compound number 167.

This response to the restriction and election of species requirements is made *with traverse*. The restriction and election requirement is traversed for the following reasons. The application is a national stage application filed under 35 U.S.C. § 371 and is thus subject to unity of invention practice in accordance with 37 C.F.R. § 1.475 and 1.499. The present application is *not* an application that is filed under 35 U.S.C § 111(a) and is thus not subject to restriction practice. According to the Examiner, the inventions listed as groups 1-9 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding technical features. To support this argument, the Examiner cites Davis et al. (US 5,057,614) which, according to the Examiner, has an identical core of the formula of claim 1 and is the common technical feature of all the claims in the instant application. The Examiner's attention is drawn to the PCT International Search and Preliminary Examination Guidelines, section 10.40, example 20, in which a generic formula having variables in a ring system is considered to possess unity of invention. Furthermore, under unity of invention practice, unity of invention exists where there is a technical relationship between the claimed inventions involving one or more special technical features. The term "special technical features" is defined as meaning those technical features that define a contribution which each of the inventions considered as a whole makes over the prior art. Examples of combinations of categories of invention which are considered to have unity of invention include:

- according to 35 C.F.R. 1.475(b)(2), "*a product and process of use of said product*" (see MPEP 1850);
- "*in addition to an independent claim for a given product ... an independent claim for a use of the said product*". (see MPEP 1850 "Illustrations of Particular Situations", section a);

- “Use of a family of compounds *X* as insecticides” and “compound *X₁* belonging to family *X*” (see PCT international search and preliminary examination guidelines, section 10.24, example 4).

Thus, according to PCT practice, it is clear that a compound/composition and a method of use of such compound/composition would be considered to have unity of invention, and that the claims clearly share common special technical features as defined under unity of invention practice. Furthermore, Applicants note that using the same PCT guidelines, no unity of invention objection was made during the international stage of the present application. Thus, it is respectfully requested that the Examiner reconsider his position and remove the restriction requirement for the aforesaid claims.

The Examiner has further required an election of species from claims 50 and 51, which correspond to previous claims 20 and 21. The Examiner states that the species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1 to be fully responsive to the election of species requirement. Applicants hereby elect *with traverse* compound number 149 from newly numbered claim 50 and compound number 167 from newly numbered claim 51. It is respectfully submitted that the election of species requirement does not exist under the PCT unity of invention requirement. Thus, the Examiner is improperly applying this requirement to the present application. Withdrawal of this requirement is respectfully requested.

Attorney Docket Number

Please note that the attorney docket number for this case has changed. The new docket number is L80003396US2. It is respectfully requested that this number be used on all future correspondence in connection with this application.

If any further extension of time is necessary, the United States Patent and Trademark Office is hereby petitioned for such an extension and may charge any necessary fees to our Deposit Account no. 50-4067.

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If any further fee, whatsoever, with respect to the present application is due, the United States Patent and Trademark Office is in any event hereby authorized to charge such further amount to our Deposit Account no. 50-4067.

In light of the foregoing amendments and comments, favourable reconsideration is respectfully requested.

Respectfully submitted,

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